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| APPLICATION NO.                          | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
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| 10/761,909                               | 01/21/2004  | Thomas Patrick Bishop | VIEO1200             | 4654             |
| 34456                                    | 7590        | 10/12/2007            |                      |                  |
| LARSON NEWMAN ABEL POLANSKY & WHITE, LLP |             |                       | EXAMINER             |                  |
| 5914 WEST COURTYARD DRIVE                |             |                       | RICHARDSON, THOMAS W |                  |
| SUITE 200                                |             |                       |                      |                  |
| AUSTIN, TX 78730                         |             |                       | ART UNIT             | PAPER NUMBER     |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/761,909

**Applicant(s)**

BISHOP ET AL.

**Examiner**

Thomas Richardson

**Art Unit**

4121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 21 January 2004
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

Art Unit: 4121

### **DETAILED ACTION**

Claims 1-33 are pending for examination.

Claims 1-33 are rejected.

#### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "404" (in the specification, page 23, paragraph [0062]) and "426" (Figure 4, step 2) have both been used to designate the second step of Figure 4 (Creating a second set of physical components...). Also, reference characters "406" (specification, page 23, paragraph [0062]) and "442" (Figure 4, step 3) have both been used to designate the third step of Figure 4 (Using the logical instrument...). Also, reference characters "504" (specification, page 25, paragraph [0069]) and "522" (Figure 5, step 2) have both been used to designate the second step of Figure 5 (Detecting the physical component...). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. Claim 32 is objected to because of the following informalities: the word "the" appears to be out of place (... further comprising the at least one physical component). Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-33 rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0149753, Lamb.

5. As per claim 1, Lamb teaches a method of managing a network (abstract, where the network includes a manager) comprising:

provisioning or de-provisioning a physical component on the network (page 22, paragraph [0348], where the engine sends messages to the manager, including notifications indicating addition or removal of a device); and  
automatically updating a logical object to reflect the provisioning or de-provisioning of the physical component (page 25, paragraph [0417], where the manager updates its topology to reflect changes in status).

6. As per claim 2, Lamb teaches the method of claim 1, further comprising:

detecting that the physical component has been added to the network (page 22, paragraph [0347], where the engine can detect addition of a device); and  
instantiating a physical model object corresponding to the physical component (page 22, paragraph [0348], where the device is added to the topology by the manager).

7. As per claim 3, Lamb teaches the method of claim 2, wherein detecting and instantiating are performed automatically (page 22, paragraph [0348], where the engine forwards to the manager, which updates the topology).

8. As per claim 4, Lamb teaches the method of claim 2, wherein updating the logical object comprises relating the physical model object to the logical object (page 22, paragraph [0348], where the manager updates the network topology).

9. As per claim 5, Lamb teaches the method of claim 1, further comprising determining that the physical component has been removed from the network (page 22, paragraph [0347], where the engine can detect removal of a device).

10. As per claim 6, Lamb teaches an apparatus operable for carrying out the method of claim 1 (Figure 1 and associated description, where the manager is a physical object).

11. As per claim 7, Lamb teaches a method of managing a network (abstract) comprising:

using a logical instrument with a first set of physical components (page 13, paragraph [0193], where the manager maintains a database of network information);

creating a second set of physical components that is different from the first set of physical components (page 22, paragraph [0348], where the network changes through an addition or removal of a device); and  
using the logical instrument with the second set of physical components (page 22, paragraph [0348], where the manager updates the network topology),  
wherein the logical instrument is not manually reconfigured between using the logical instrument with the first set of physical components and using the logical instrument with the second set of physical components (page 22, paragraph [0348], where the engine forwards to the manager, which updates the topology automatically).

12. As per claim 8, Lamb teaches the method of claim 7, wherein the logical instrument is not changed between using the logical instrument with the first set of physical components and using the logical instrument with the second set of physical components (page 22, paragraph [0348], where the manager is not replaced).

13. As per claim 9, Lamb teaches the method of claim 7, wherein each of the physical components within the first and second sets of physical components comprises a software agent coupled to the instrument (page 14, paragraph [0210], where the devices run with an object oriented programming language).

14. As per claim 10, Lamb teaches the method of claim 7, wherein the logical instrument includes a logical gauge (Figures 16-22, 29-32 and associated descriptions, where the GUI is accessible by a user and acts as a logical dashboard).

Art Unit: 4121

15. As per claim 11, Lamb teaches the method of claim 7, wherein the logical instrument includes a logical control (Figures 16-22, 29-32 and associated descriptions, where the GUI is accessible by a user and acts as a logical dashboard).

16. As per claim 12, Lamb teaches the method of claim 7, wherein all physical components within the first and second sets of physical components are of a same type (Figure 1, where the hosts are the same type).

17. As per claim 13, Lamb teaches the method of claim 7, wherein:  
creating a second set of physical components comprises adding a first physical component to the network (page 22, paragraph [0348], where the a device is added to the system);

wherein the method further comprises:

detecting the first physical component has been added to the network (page 22, paragraph [0347], where the engine can detect addition of a device);

instantiating a first physical model object corresponding to the first physical component (page 22, paragraph [0348], where the device is detected in the scan); and

updating a logical object to reflect a relationship between the first physical model object and the instrument (page 22, paragraph [0348], where the engine forwards to the manager, which updates the topology).

Art Unit: 4121

18. As per claim 14, Lamb teaches the method of claim 13, wherein detecting, instantiating, and updating are performed automatically (page 22, paragraph [0348], where the engine forwards to the manager, which updates the topology automatically).

19. As per claim 15, Lamb teaches the method of claim 7, wherein:  
creating a second set of physical components comprises removing a first physical component to the network (page 22, paragraph [0348], where the engine can detect the removal of a device);

wherein the method further comprises:

determining the first physical component has been removed the network (page 22, paragraph [0348], where the device is detected in the scan);

and

updating a logical object to reflect that the first physical model object is not related to the instrument (page 22, paragraph [0348], where the engine forwards to the manager, which updates the topology).

20. As per claim 16, Lamb teaches the method of claim 15, wherein detecting and updating are performed automatically (page 22, paragraph [0348], where the engine forwards to the manager, which updates the topology automatically).

21. As per claim 17, Lamb teaches an apparatus operable for carrying out the method of claim 7 (Figure 1 and associated description, where the system is implemented with devices).

22. As per claim 18, Lamb teaches a data processing system readable medium having code for estimating usage of a component within a network (page 14, paragraph



Art Unit: 4121

[0214], where the service monitors system utilization), wherein the code is embodied within the data processing system readable medium, the code comprising:

an instruction for provisioning or de-provisioning a physical component on the network (page 22, paragraph [0348], where the engine sends messages to the manager, including notifications indicating addition or removal of a device); and  
an instruction for updating a logical object to reflect the provisioning or de-provisioning of the physical component (page 25, paragraph [0417], where the manager updates its topology to reflect changes in status).

23. As per claim 19, Lamb teaches the data processing system readable medium of claim 18, wherein the code further comprises:

an instruction for detecting that the physical component has been added to the network (page 22, paragraph [0347], where the engine can detect addition of a device); and

an instruction for instantiating a physical model object corresponding to the physical component (page 22, paragraph [0348], where the device is added to the topology by the manager).

24. As per claim 20, Lamb teaches the data processing system readable medium of claim 19, wherein the instruction for updating the logical object comprises an instruction for relating the physical model object to the logical object (page 22, paragraph [0348], where the manager updates the network topology).

25. As per claim 21, Lamb teaches the data processing system readable medium of claim 18, wherein the code further comprises an instruction for determining that the

Art Unit: 4121

physical component has been removed from the network (page 22, paragraph [0347], where the engine can detect removal of a device).

26. As per claim 22, Lamb teaches a data processing system readable medium having code for estimating usage of a component within a network (page 14, paragraph [0214], where the service monitors system utilization), wherein the code is embodied within the data processing system readable medium, the code comprising:

- an instruction for using a logical instrument with a first set of physical components (page 13, paragraph [0193], where the manager maintains a database of network information);

- an instruction for creating a second set of physical components that is different from the first set of physical components (page 22, paragraph [0348], where the network changes through an addition or removal of a device); and

- an instruction for using the logical instrument with the second set of physical components (page 22, paragraph [0348], where the manager updates the network topology), wherein the logical instrument is not manually reconfigured between using the logical instrument with the first set of physical components and using the logical instrument with the second set of physical components (page 22, paragraph [0348], where the engine forwards to the manager, which updates the topology automatically).

27. As per claim 23, Lamb teaches the data processing system readable medium of claim 22, wherein the logical instrument is not changed between using the logical instrument with the first set of physical components and using the logical instrument

Art Unit: 4121

with the second set of physical components (page 22, paragraph [0348], where the manager is not replaced).

28. As per claim 24, Lamb teaches the data processing system readable medium of claim 22, wherein each of the physical components within the first and second sets of physical components comprises a software agent coupled to the instrument (page 14, paragraph [0210], where the devices run with an object oriented programming language).

29. As per claim 25, Lamb teaches the data processing system readable medium of claim 22, wherein the logical instrument includes a logical gauge (Figures 16-22, 29-32, and associated descriptions, where the GUI is accessible by a user and acts as a logical dashboard).

30. As per claim 26, Lamb teaches the data processing system readable medium of claim 22, wherein the logical instrument includes a logical control (Figures 16-22, 29-32 and associated descriptions, where the GUI is accessible by a user and acts as a logical dashboard).

31. As per claim 27, Lamb teaches the data processing system readable medium of claim 22, wherein all physical components within the first and second sets of physical components are of a same type (Figure 1, where the hosts are the same type).

32. As per claim 28, Lamb teaches the data processing system readable medium of claim 22, wherein:

the instruction for creating a second set of physical components comprises an instruction for adding a first physical component to the network (page 22, paragraph [0348], where the a device is added to the system);

wherein the code further comprises:

an instruction for detecting the first physical component has been added to the network (page 22, paragraph [0347], where the engine can detect addition of a device);

an instruction for instantiating a first physical model object corresponding to the first physical component (page 22, paragraph [0348], where the device is detected in the scan); and

an instruction for updating a logical object to reflect a relationship between the first physical model object and the instrument (page 22, paragraph [0348], where the engine forwards to the manager, which updates the topology).

33. As per claim 29, Lamb teaches the data processing system readable medium of claim 22, wherein:

the instruction for creating a second set of physical components comprises an instruction for removing a first physical component to the network (page 22, paragraph [0348], where the engine can detect the removal of a device);

wherein the code further comprises:

an instruction for determining the first physical component has been removed the network (page 22, paragraph [0348], where the device is detected in the scan); and

an instruction for updating a logical object to reflect that the first physical model object is not related to the instrument (page 22, paragraph [0348], where the engine forwards to the manager, which updates the topology).

34. As per claim 30, Lamb teaches a system for managing a network comprising:  
a logical instrument (page 13, paragraph [0193], manager);  
at least one physical model object corresponding to at least one physical component (page 13, paragraph [0196], where the agents are associated with hosts); and  
a logical object, wherein the logical object relates the physical model object to the logical instrument (page 13, paragraph [0193], where the topology represents the hosts).
35. As per claim 31, Lamb teaches the system of claim 30, wherein the logical instrument is coupled to a plurality of physical model objects (page 13, paragraph [0194], where the manager is connected through a LAN), wherein all of the physical model objects are of a same type (Figure 1 and associated descriptions, where hosts are all computers).
36. As per claim 32, Lamb teaches the system of claim 30, further comprising the at least one physical component (Figure 1 and associated descriptions, where hosts are all computers).

37. As per claim 33, Lamb teaches the system of claim 32, wherein the at least one physical component comprises a software agent coupled to the at least one physical model object page 13, paragraph [0193], where the manager includes and is coupled to software modules).

### ***Conclusion***

38. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 7 171 467, Carley discloses a management system that detects user connections and disconnections.

US 2005/0193103, Drabik discloses a method and apparatus for automatic configuration and management.

US 2005/0160162, Cromer et al discloses a system and method for automatic wake-up of devices and management.

US 2005/0108369, Sather et al discloses a system and method for managing, including detection of addition and removal of devices.

US 2004/0117484, Singer et al discloses a method and apparatus for managing devices, including adding a client.

US 2003/0236875, Green et al discloses a system for managing comprising discovery and monitoring subsystems.

US 2002/0069271, Tindal et al discloses a method and apparatus to configure, monitor, and manage devices, including event posting and notification.

Art Unit: 4121

US 2002/0004828, Davis et al discloses an element management system with support for addition of devices.


US 2003/0005090, Sullivan et al discloses a network architecture for automating the configuration and control of networks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Richardson whose telephone number is (571) 270-5006. The examiner can normally be reached on Monday through Thursday, 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Taghi Arani can be reached on (571) 272-3787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TR

  
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10/9/07